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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

Sergey Fedorovich Golovashchenko

Group Art Unit: 3724

Serial No.: 09/927,281

Examiner: Kenneth E Peterson

Filed: August 10, 2001

For: APPARATUS FOR TRIMMING METAL

Attorney Docket No.: FGT 1452 PA (200-1213)

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KAREN A. HOFF

REPLY BRIEF

Mail Stop Appeal Brief - Patents
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This Reply Brief is being filed in response to the Examiner's Answer dated
July 25, 2006.

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Although the Applicant believes the brief filed on appeal stands with sufficient support for the Board to find for the Appellant in finding claims 1-4 and 12-13 allowable, the Applicant believes further detail will serve the Board with a better understanding of the issues in light of the Examiner's Answer on file.

The first issue that bears further attention stems from the Examiners position that the limitation of the claims that calls for a radius on the cutting edge to be the equivalent of a limitation of a dull blade. This runs directly counter Federal Circuit's position in (Omega Engineering Inc. v. Raytek Corp. 334 F.3d 1314, 67 U.S.P.Q.2d 1321, Fed. Cir.(Conn.), Jul 07, 2003). That decision clearly established that a prosecution disclaimer functions as a real and definite limitation on a claim. All that is required is for the Applicant to make a clear and unmistakable disclaimer during prosecution for such limitation to arise. The Applicant has repeatedly done this during prosecution. The Applicant has done this to the degree of citing Omega Engineering itself during prosecution. Therefore, when the Applicant states that the term radius when utilized in the present application has a definition of a radius greater than 0.1 mm, it is no longer a mere discussion of allowing the Applicant to be its own lexicographer, it is a clear and unmistakable limitation on the term. As such, a recognized limitation and defined term, it should not be summarily dismissed as the equivalent of a "dull blade". In addition, logic would dictate that if such dull-blades were truly the equivalent of the present invention, industry would have little reason to sell replacement blades or even sharp blades to begin with. Yet, no evidence is provided in support of this proposition.

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Secondly, the Examiner asserts that the physical mechanics of punching are identical to those of trimming. This is in error. The physical dynamics of metal punching are vastly different from trimming. As clearly stated throughout prosecution, shear forces do not act in isolation. It is not shearing load alone that causes slivers and burring. If it were so, little could be accomplished to reduce these artifacts as the shear stress of a given material is generally constant. Rather, it is the mechanicals of surface area over which these forces are applied and the reduction of edge bending that separates the present invention from the prior art. Punching simply does not provide the same mechanical issues and therefore does not require the same advanced approach. No evidence has been provided to counter the arguments presented in the Appellants Brief in support thereof.

The present invention claims trimming utilizing a moving blade with a radius formed thereon to reduce defects and further supporting the blank with a support that moves substantially parallel to the upper surface. The art provided for and relied on by the Examiner fails to teach or suggest this combination of limitations. The Applicant, therefore, asserts that the Examiner's position is improper and should be overturned by the Board.

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